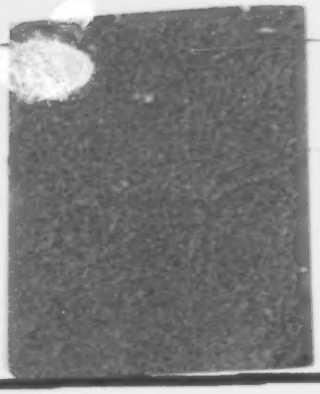
UNITED NATIONS

Framework Convention on Climate Change



Distr.
GENERAL

FCCC/CP/1997/2/Add.1
26 November 1997

Original: ENGLISH

CONFERENCE OF THE PARTIES
Third session
Kyoto, 1-10 December 1997
Item 5 of the provisional agenda

ADOPTION OF A PROTOCOL OR ANOTHER LEGAL INSTRUMENT: FULFILMENT OF THE BERLIN MANDATE

Revised text under negotiation

Addendum

Note by the secretariat

1. At the first part of its eighth session, the Ad Hoc Group on the Berlin Mandate (AGBM) approved texts for incorporation in the revised text under negotiation. It further agreed to transmit the revised text under negotiation (FCCC/CP/1997/2) to the Conference of the Parties at its third session (see FCCC/AGBM/1997/8, paras. 17 and 21).

2. Also at the first part of its eighth session, the Chairman of the AGBM noted that, thus far, the Group had been working on texts based on the structure of a protocol. He recalled, however, that the option of adopting an amendment was still open to the Group and undertook to prepare "a draft text for an amendment to the Convention, based on the revised text under negotiation and taking into account the documents and proposals still on the table" (see FCCC/AGBM/1997/8, para. 20).

3. The Chairman's draft text for a possible amendment to the Convention is reproduced below. Although there has been no change in the substance of the text contained in document FCCC/CP/1997/2, some minor modifications have been introduced to accommodate the different nature of the legal instrument. In particular, those Articles not relevant to an amendment have been dropped.

4. Parties may wish to note that the text also includes an Article, based on a proposal submitted by a Party (contained in FCCC/AGBM/1997/MISC.3), which would define entry into force provisions for the possible amendment.

ARTICLE 1. AMENDMENT

A. Amendment to Article 1

The following definition shall be added to Article 1 after definition 5:

5(bis) "Intergovernmental Panel on Climate Change" means the Intergovernmental Panel on Climate Change jointly established by the World Meteorological Organization and the United Nations Environment Programme in 1988.

(*Additional definitions, as necessary*).

B. Amendment to Article 4

1. *The following subparagraph shall be inserted after paragraph 1(a):*

(a)(bis) Formulate, where relevant and to the extent possible, cost-effective [national], and where appropriate [regional] programmes for the development of local emission factors, activity data and models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, so as to move toward the improvement of their quality, using comparable methodologies to be agreed upon by the Conference of the Parties;

2. *The following subparagraph[s] shall be inserted after paragraph 1(b):*

Alternative A

(i) [[In the implementation of the commitments in this paragraph,] [Giving special consideration to supporting measures which favour the economic development of developing country Parties and minimizing adverse effects on other Parties, especially developing country Parties and in particular those identified in] [paragraph 8] [shall be taken into account];]

(ii) The programmes containing measures shall, *inter alia*, and to the extent possible and relevant, [remove obstacles to the limitation or the abatement of increase of anthropogenic emissions by sources and to the enhancement of removals by sinks, enhance energy efficiency, emphasize market-oriented pricing, as appropriate encourage reforms

in the energy sector and regulatory regimes, increase the use of renewable energy, make improvements in the transport and industrial sectors, promote the development and sustainable management of greenhouse gas sinks and reservoirs, improve the integration of climate change considerations into the agriculture and waste management sectors, promote voluntary arrangements with industry, and generally take actions to address climate change that, in the context of their national priorities, objectives and circumstances, are economically justified and can help address other environmental problems;] and

(iii) The programmes containing measures shall, *inter alia*, and to the extent possible and relevant, [improve protection measures for infrastructure,] deploy adaptation technologies and know-how, develop and implement integrated mountain area plans, develop and implement integrated coastal zone management plans, develop research on impacts of, and adaptation to, climate change, develop and implement related technical capacity building and awareness raising measures, promote sustainable management plans for the conservation and enhancement of sinks and reservoirs and ecosystems and develop and implement plans for water resources and agriculture, particularly for countries affected by drought and desertification;

Alternative B

(b)(bis) Each developed country Party and each other developed Party included in Annex II shall incorporate into its national programmes the quantified emission limitation and reduction objectives and related policies and measures under paragraphs 2(a)(bis) to (quinquies) and paragraphs 2(b)(bis) to (quinquies) below, including details of measures undertaken by them to promote, facilitate and finance transfer of technology, provide new and additional financial resources and assist in meeting costs of adaptation in developing countries. Each developing country Party shall seek to include in its national communication, as appropriate, information on programmes which contain measures that the Party believes contribute to addressing climate change and its adverse impacts, including the abatement of increase in greenhouse gas emissions, and enhancement of and removals by sinks, capacity building and adaptation measures;

3. *The following subparagraph shall be inserted after paragraph 1(c):*

Alternative A

(c)(bis) Promote effective modalities for removing barriers to the investment in and development, application and diffusion, including the transfer of, environmentally sound technologies, know-how, practices and processes pertinent to the mitigation of, and adaptation to, climate change, and consider policies and programmes for the effective transfer of environmentally sound technologies through [financial and fiscal] incentives to promote and enhance access to, and transfer of, currently available environmentally sound technologies;

Alternative B

(c)(bis) Take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to the mitigation of, and adaptation to, climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain, and encourage the private sector through financial and fiscal incentives to promote and enhance access to, and transfer of, patent-protected environmentally sound technologies, in particular to developing countries;

4. *The following subparagraph[s] shall be inserted after paragraph 1(f):*

(f)(bis) Identify and implement procedures that enable their governments to take climate change considerations into account in relevant decisions, including those of intergovernmental organizations and in particular multilateral development banks;]

[(f)(ter) Promote, co-operate and share information on the national development and use of indicators to assist in the assessment of climate change and its adverse impacts and response measures, *inter alia*, on the economy, infrastructure, human settlements, social and cultural practices, public health and the quality of the environment with a view to minimizing any adverse effects, and include such assessments in their national communications;]

5. *The following subparagraph shall be inserted after paragraph 1(g):*

(g)(bis) Co-operate in scientific and technical research and systematic observation and development of data archives to reduce uncertainties related to the climate system, the adverse impacts of climate change and the economic and social consequences of various

response strategies, and promote the development and strengthening of endogenous capacities and capabilities to participate in international and intergovernmental efforts, programmes and networks on research and systematic observation, taking into account Article 5;

6. *The following subparagraph shall be inserted after paragraph 1(i):*

(i)(bis) Co-operate in and promote at the international level, and, where appropriate, using existing bodies, the development and implementation of education and training programmes, [including the strengthening of national institutions] and the exchange or secondment of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness and public access to information on climate change. Suitable modalities should be developed to implement these activities through the relevant bodies of the Convention taking into account Article 6;

7. *The following subparagraph shall be inserted after paragraph 2(a):*

(a)(bis) Each of the Parties included in Annex I [or acting under Article 4(bis)] shall adopt and implement national policies and measures in achieving its commitments regarding quantified emission limitation and reduction objectives under subparagraph (b)(bis) to (quinquies) below, in order to promote sustainable development,

Alternative A

such as the following policies and measures, in accordance with its national circumstances:

(i) Enhancement of energy efficiency in all sectors of the national economy;

(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol;

(iii) Promotion, development and increased use of renewable forms of energy and of innovative environmentally sound technologies;

(iv) Phasing out of market imperfections, fiscal incentives, tax exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention; and

(v) Providing a continuous balance between those policies and measures aimed at reducing emissions of greenhouse gases in emitting sectors and those aimed at reducing consumption of their products;

Alternative B

in particular, the following policies and measures:

(i) Implement commitments in subparagraph (e)(ii) below and remove obstacles to the limitation and reduction of emissions of greenhouse gases and greenhouse gas precursors not controlled by the Montreal Protocol and to the enhancement of removals by sinks;

(ii) Enhance energy efficiency in all sectors, including the energy production and transformation, industrial, transport, residential and commercial and agricultural sectors;

(iii) Progressively reduce/phase out market imperfections and fiscal incentives that run counter to the objective of the Convention, including, *inter alia*, subsidies on all fossil fuels;

(iv) Encourage appropriate reforms in the energy sector and regulatory regimes aimed at promoting policies and practices which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;

(v) Promote, develop and increase the use of renewable forms of energy to ensure that a significant increase of the share of its energy supply is realized;

(vi) Develop measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector including average fuel consumption targets for new vehicles, minimum excise duty on fuels, promotion of low emission transport modes and other instruments;

(vii) Limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, through the International Civil Aviation Organization and the International Maritime Organization, respectively, in particular work towards introducing aviation fuel taxation;

(viii) Protect and enhance sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol and promote sustainable forest management practices, afforestation and reforestation;

(ix) Integrate climate change considerations into agricultural practices and promote sustainable forms of agriculture;

(x) Research and develop innovative climate-friendly technologies, and promote the application and diffusion, including transfer of, such technologies, particularly to developing country Parties;

(xi) Limit and/or reduce emissions of hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride;

(xii) Apply economic instruments to ensure that market prices give appropriate signals to consumers and businesses to limit and reduce emissions of greenhouse gases; and

(xiii) Reduce emissions of methane through recovery and use in the waste management sector, as well as in the production, transport and distribution of energy.

The Conference of the Parties shall assess the application of these policies and measures;

Alternative A

(a)(ter) Each of the Parties included in Annex I [or acting under Article 4(bis)] shall implement policies and measures under this paragraph in such a way as to avoid adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in paragraphs 8 and 9 below, taking into account Article 3, paragraph 5.[1] The Conference of the Parties may take further action, as appropriate, to promote the implementation of the provisions of this subparagraph;

Alternative B

(a)(ter) Each of the Parties included in Annex I [or acting under Article 4(bis)] shall implement policies and measure under this paragraph taking into account the adverse effects of climate change and/or the impacts of the implementation of policies and measures on developing country Parties, especially those identified in paragraph 8 below.

---

[1] This matter is linked with the issue of a compensation fund and a clean development fund. Cross-referencing may be introduced once the actual placement of the text on these funds is proposed.

The Conference of the Parties may take actions, as appropriate, with respect to this paragraph;

(a)(quater) Each of the Parties included in Annex I [or acting under Article 4(bis)] shall co-operate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted and implemented under this paragraph, in accordance with subparagraph (e)(i) below. To this end, these Parties shall take steps to share their experience and exchange information on these policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The Conference of the Parties shall, at its first session after entry into force of this subparagraph or as soon as practicable thereafter, consider ways to facilitate such co-operation, taking into account all relevant information;

[(a)(quinquies) The Parties included in Annex I [or acting under Article 4(bis)] shall co-ordinate the implementation of those policies and measures identified in subparagraph (a)(bis) above and in the development of methodologies to assess their effectiveness. The Conference of the Parties shall, at its first session after entry into force of this subparagraph or as soon as practicable thereafter, consider ways and means to facilitate such co-ordination, including by instituting a process to develop recommendations to Parties in the form of guidelines, taking into account national circumstances and relevant work being done by other bodies.]

8. *The following subparagraphs shall be inserted after paragraph 2(b):*

Alternative A

(b)(bis) Parties included in Annex I shall, individually or jointly, ensure that their net[2] aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III do not exceed their commitments, expressed in terms of emission budgets, inscribed in Attachment 1;

Alternative B

(b)(bis) Each Party included in Annex I shall ensure that its net aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III do not exceed its commitments, expressed in terms of emission budgets, inscribed in Attachment 1;

---

[2] The use of the word "net" throughout this text will depend on the outcome of the ongoing consultations on the inclusion of sinks in the establishment of quantified emission limitation and reduction objectives.

Alternative C

(b)(bis) Each Party included in Annex I shall achieve quantified emission limitation and reduction objectives within time frames such as 2005, 2010 and 2020 for its anthropogenic emissions by sources and removals by sinks of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol;

Alternative A

(b)(ter) The commitments for each Party included in Annex I under subparagraph (b)(bis) above shall be established using the process set out in Annex IV and shall be inscribed in Attachment 1;[3]

Alternative B

(b)(ter) Parties included in Annex I shall be subject to uniform commitments under subparagraph (b)(bis) above, which are as follows: (*to be completed*),

[(b)(quater) Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under subparagraph (b)(bis) above;]

[(b)(quinquies) Each Party acting under Article 4(bis) shall ensure that its net aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III do not exceed its commitments, expressed in terms of emission budgets and inscribed in Attachment 1, determined in accordance with the provisions of Article 4(bis);]

9 *The following subparagraphs shall be inserted after paragraph 2(c):*[4]

(c)(bis) Each Party included in Annex I [or acting under Article 4(bis)] shall have in place, [no later than one year prior to the start of the first budget period,] a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems, which shall incorporate the methodologies specified in subparagraph (c)(ter) below, shall be decided upon by the Conference of the Parties at its first session after entry into force of this subparagraph;

---

[3] For those Parties included in Annex I on the date of adoption of this paragraph, these commitments shall be established together with the adoption of this paragraph.

[4] The Alliance of Small Island States (AOSIS) has indicated that it would require further consultations on this paragraph, pending the elaboration of the term "net" under Article 4.2(b)(bis).

(c)(ter) Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol for the purposes of subparagraph (b)(bis) to (quinquies) above shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties at its first session after entry into force of this subparagraph. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties shall regularly review and, as appropriate, revise such methodologies and adjustments. Any revision to methodologies or adjustments shall only be used for the purposes of ascertaining compliance with commitments under subparagraph (b)(bis) to (quinquies) above in the case of those commitments that are adopted subsequent to that revision [, unless otherwise decided by the Conference of the Parties];

[(c)(quater) The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol listed in Annex III for the purposes of subparagraph (b)(bis) to (quinquies) above shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties shall regularly review and, as appropriate, revise the global warming potential of each such greenhouse gas. Any revision to a global warming potential shall only apply to those commitments under subparagraph (b)(bis) to (quinquies) above that are adopted subsequent to that revision [, unless otherwise decided by the Conference of the Parties];]

10. *The following paragraph shall be inserted after paragraph 3:*

3(bis) [In accordance] [Consistent] with the provisions of paragraph 3 above and Article 11, the developed country Parties and other developed Parties included in Annex II shall provide [new and] additional financial resources [through the mechanism defined by the Convention] to meet the agreed full costs incurred by developing country Parties in implementing measures under paragraphs [1(a)(bis), 1(f)(ter), 1(g)(bis) and 1(i)(bis)] above. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraphs [1(b)(bis) and 1(c)(bis)] above, and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy

and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.

C. New Article 4(bis)

The following new Article shall be inserted after Article 4:

[Article 4(bis)[5]

1. Any signatory or Party to this Convention not included in Annex I may, at any time, notify the Depositary that it has opted to be bound by this Article. The Depositary shall inform the other signatories and Parties of any such notification.

2. Such notification, supported by an inventory of emissions of greenhouse gases not controlled by the Montreal Protocol, including for the historical base year or period chosen under subparagraph (a) below, and a projection of future emissions, shall include a formal declaration on the following points:

(a) Its chosen historical base year or period for the implementation of subparagraph (b) below; and

(b) The level of limitation or reduction of anthropogenic emissions of greenhouse gases listed in Annex III, as a basket, it is ready to undertake.

3. Where a notification has been made pursuant to paragraphs 1 and 2 above, the secretariat shall include it in the agenda for the following session of the Conference of the Parties, which shall decide on the acceptance of such notification.

4. After its acceptance by the Conference of the Parties, a notification by a signatory shall enter into force on the date of entry into force of this Convention for that State, and a notification by a Party to this Convention shall enter into force on the ninetieth day after the acceptance of such notification. The commitment under paragraph 2(b) above of Parties acting under this Article shall be inscribed in Attachment 1.

5. Parties acting under this Article shall be bound by the obligations of Parties included in Annex I with respect to the communication of information related to implementation under Article 10, paragraphs 2(a) and 2(b) and Article 12, and the relevant decisions of the Conference of the Parties.]

---

[5] The Group of 77 and China have requested the deletion of this Article.

D. New Article 4(ter)

The following new Article shall be inserted after Article 4(bis):

Article 4(ter)

[1. The first emission budget for each Party included in Annex I, from 200[_] to 20[_], shall be equal to [_ per cent/the percentage inscribed for it in Attachment 1 for that budget period] of its net aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III in 1990, or the base year or period determined in accordance with Article 4, paragraph 6, multiplied by five.]

[2. The second emission budget for each Party included in Annex I, from 20[_] to 20[_], shall be equal to [_ per cent/the percentage inscribed for it in Attachment 1 for that budget period] of its net aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III in 1990, or the base year or period determined in accordance with Article 4, paragraph 6, multiplied by five.]

[3. The first emission budget for each Party acting under Article 4(bis) shall be equal to the percentage, determined in accordance with Article 4(bis), of its net aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex III in the base year or period determined in accordance with Article 4(bis), multiplied by five.]

[4. Any part of an emission budget, or any emission credits, which a Party acquires from another Party in accordance with the provisions of Article 4(quinquies) or Article 4(sexies) shall be added to the emission budget of that Party.]

[5. Any part of an emission budget, or any emission credits, which a Party transfers to another Party in accordance with the provisions of Article 4(quinquies) or Article 4(sexies) shall be subtracted from the emission budget of that Party.]

[6. The procedures established in paragraphs 1 to 5 above shall be used to calculate the emission budget of Parties included in Annex I [or acting under Article 4(bis)] for subsequent budget periods, unless otherwise decided by the Conference of the Parties.]

[7. If a Party included in Annex I [or acting under Article 4(bis)] reduces its emissions during a budget period by a greater percentage than that required by its commitment under Article 4, paragraphs 2(b)(bis) to (quinquies), this difference shall, on request of that Party, be credited to its emission budget for subsequent budget periods.]

[8. If a Party included in Annex I [or acting under Article 4(bis)] exceeds its emission budget for a budget period, by up to and including [_] per cent, that Party shall not be considered as being in a state of non-compliance if it subtracts the amount of excess emissions from its subsequent emission budget at a rate of [_:1].]

[9. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties shall regularly review and, as appropriate, amend the list of greenhouse gases in Annex III with a view to including other greenhouse gases not controlled by the Montreal Protocol and source and sink categories. Any amendment to the list of greenhouse gases in Annex III shall be in accordance with the provisions set forth in Article 16, and shall only apply to those commitments under Article 4, paragraphs 2(bis) to (quinquies) that are adopted after the entry into force of that amendment.]

[10. Until such time as any greenhouse gases not controlled by the Montreal Protocol from any source and sink categories are covered by commitments under this Article, Parties included in Annex I [or acting under Article 4(bis)] shall make every effort to limit and reduce their anthropogenic emissions by sources and enhance their removals by sinks of such gases.]

[11. Each Party included in Annex I shall fulfil the commitments mentioned in Article 4, paragraph 2(b)(bis) in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those included in Article 4, paragraph 8. A compensation fund shall be established by the Conference of the Parties to compensate the developing country Parties which may suffer social, environmental and/or economic loss as a result of actions taken to meet quantified emission limitation and reduction objectives.]

[12. A clean development fund shall be established by the Conference of the Parties to assist the developing country Parties to achieve sustainable development and contribute to the ultimate objective of the Convention. The clean development fund will receive contributions from those Parties included in Annex I found to be in non-compliance with their quantified emission limitation and reduction objectives under Article 4, paragraph 2(b)(bis). The clean development fund will also be open for voluntary contributions from Parties included in Annex I.][6]

---

[6] The Group of 77 and China requested that paragraphs 11 and 12 above, which reproduce part of that group's proposal contained in document FCCC/AGBM/1997/MISC.1/Add.6, be included in this text. It should be noted that, due to lack of time, it was not possible to enter into discussion on this matter during informal consultations conducted at the first part of the eighth session of the AGBM.

E. New Article 4(quater)

The following new Article shall be inserted after Article 4(ter):

[Article 4(quater)[7]

1. Any Parties included in Annex I [or acting under Article 4(bis)] that have agreed that they shall jointly fulfil their obligations with respect to quantified emission limitation and reduction objectives under Article 4, paragraphs 2(b) (bis) to (quinquies) shall be deemed to have met those obligations provided that their total combined level of emission reductions meets the levels as set out in Attachment 1 for those Parties.

2. Such agreement will become operative only if all Parties to it have notified the secretariat of the terms of the agreement, which shall remain operative for the duration of this Convention or until a decision to amend or rescind the agreement is notified to the secretariat by all Parties to the agreement.

3. The Parties to any such agreement shall notify the secretariat of the terms of the agreement on the date on which they deposit their instruments of acceptance in respect of this Article, or subsequently, in any event five years before the expiry of the period mentioned in Article 4(ter). The secretariat shall in turn inform the other Parties of the terms of the agreement or any decision to amend or rescind it.

4. In the event of failure by the Parties to such an agreement to achieve their total combined level of emission reductions, the Parties to such an agreement shall be responsible for their levels of emissions according to the notifications made in accordance with this Article.

5. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to the Convention, each member State of that regional economic integration organization individually, and together with the regional economic integration organization acting in accordance with Article 22, shall, in the event of failure to achieve the total combined level of emission reductions, be responsible for its level of emissions as notified in accordance with this Article.]

---

[7] A Party previously proposed text, which can be found as paragraph 20 in annex I of document FCCC/AGBM/1997/INF.1. to cover the situation in which member States of regional economic integration organizations and the organizations themselves were Parties to this instrument and sought to undertake quantified emission limitation and reduction commitments as such. The text also covers possible future enlargement of regional economic integration organizations.

F. New Article 4(quinquies)

The following new Article shall be inserted after Article 4(quater):

[Article 4(quinquies)[8]

1. For the purpose of meeting its commitments under Article 4, paragraphs 2(b)(bis) to (quinquies), any Party included in Annex I [or acting under Article 4(bis)] may [, under the international framework to be established under paragraph 4 below,] transfer to or acquire from any other Party included in Annex I [or acting under Article 4(bis)] any of its emissions allowed under Article 4, paragraphs 2(b)(bis) to (quinquies), provided that each such Party is in compliance with its obligations under Article 4, paragraphs [2(a)(bis) to (quinquies), paragraphs 2(b)(bis) to (quinquies) and] paragraphs 2(c)(bis) to (quater) and Article 12, and has in place a national mechanism for the certification and verification of emission trades.

2. A Party may authorize intermediaries to participate, under the responsibility of that Party, in actions leading to the transfer or acquisition, under this Article, of emissions allowed.

3. Emissions trading, as defined in paragraph 1 above, shall be subject to the following criteria:

[(a) Emission levels achieved before the start of any trading system established under this Convention can[not] be used as the basis for emissions trading;]

(b) Emissions trading shall be supplemental to domestic policies and measures [, which should provide the main means] [for the purposes] of meeting commitments under Article 4, paragraphs 2(b)(bis) to (quinquies); and

(c) A Party whose emissions are in excess of its emissions budget in any budget period may acquire, but may not transfer, emissions allowed.

4. The Conference of the Parties shall, at its first session after entry into force of this Article, or as soon as practicable thereafter, decide upon modalities, rules and guidelines for emissions trading, as provided for in paragraph 1 above, including methodologies for verification and reporting.

---

[8] The Group of 77 and China have requested the deletion of this Article.

5. If a question of a Party's implementation of the requirements of Article 4, paragraphs [2(a)(bis) to (quinquies), paragraphs (b)(bis) to (quinquies) and] paragraphs (c)(bis) to (quater) or Article 12 is identified in accordance with the provisions of Article 12(bis), transfers and acquisitions of emissions allowed may continue to be made, provided that any such emissions allowed may not be used by any Party to meet its obligations under Article 4, paragraphs 2(b)(bis) to (quinquies) until any issue of compliance is resolved. If a question of a Party's implementation of paragraph 3(c) above is identified in accordance with the provisions of Article 12(bis), the provisions of this paragraph shall apply only to transfers of emissions allowed by that Party.]

G. New Article 4 (sexies)

The following new Article shall be inserted after Article 4(quinquies):

[Article 4 (sexies)[9]

1. For the purpose of meeting its commitments under Article 4, paragraphs 2(b)(bis) to (quinquies), any Party included in Annex I [or acting under Article 4(bis)] may receive from any other Party included in the same Annex [or acting under that Article], in conformity with the rules of this Article and the decisions adopted in accordance with paragraph 5 below, the carbon dioxide equivalent emission reductions resulting from joint implementation projects aimed at reducing anthropogenic emissions [or enhancing anthropogenic removals] of greenhouse gases listed in Annex III in any sector of the economy.

2. Parties participating in joint implementation projects have the right to share [among themselves] the credits attributed to the project.

3. In order to generate credits, joint implementation projects shall satisfy the following conditions:

(a) Parties participating in joint implementation projects shall be in compliance with their obligations under Articles 4, paragraphs 2(b)(bis) to (quinquies) and paragraphs (c)(bis) to (quater) and Article 12, and shall have a national mechanism for the accounting, certification and verification of their greenhouse gas emissions;

(b) Participation in joint implementation projects shall be voluntary, and shall require prior acceptance, approval or endorsement by the participating Parties;

---

[9] The Group of 77 and China have requested the deletion of this Article. Other Parties, including the United States and the European Community and its member States, have indicated that they would require further consultations on this Article.

(c) Joint implementation projects shall bring about real, measurable and long-term environmental benefits related to the mitigation of climate change, whilst avoiding adverse environmental and social effects. Projects must provide a reduction in [or a removal by sinks of] emissions that is additional to any that would otherwise occur;

(d) Joint implementation projects must be compatible with, and supportive of, national environment and development priorities and strategies, and must contribute to cost-effectiveness in achieving global benefits;

[(e) Joint implementation projects can be undertaken by two or more Parties;]

(f) Joint implementation projects shall be supplemental to domestic policies and measures [, which should provide the main means of meeting commitments under Article 4, paragraphs 2(b)(bis) to (quinquies)];

(g) Joint implementation projects shall be assessed on a project basis. Credits shall be calculated and allocated on an annual basis. They shall be subject to stringent emission reduction [or removal] verification and accountability methodologies. For each project, a baseline shall be established, against which the net environmental benefits of greenhouse gas emission mitigation and reduction achieved by the joint implementation project can be compared; and

(h) Parties shall report on joint implementation projects in their national communications using guidelines to be adopted by the Conference of the Parties at its first session after entry into force of this Article and periodically reviewed thereafter.

4. A Party may authorize intermediaries to participate, under the responsibility of that Party, in actions leading to the generation, transfer or receipt of credits for joint implementation projects under this Article.

5. The Conference of the Parties shall adopt at its first session after entry into force of this Article, and periodically review thereafter:

[(a) Criteria and guidelines for the attribution of emission credits to projects;]

(b) Guidelines for reporting on joint implementation projects and for the accounting, certification and verification of greenhouse gas emissions [and removals];

(c) Methodologies for calculating project baselines and actual emissions [or removals] in order to assess the incremental impact of the project; and

(d) Methodologies for the verification and auditing of actual emission reductions [or removals].

[6. If a decision is taken by the Conference of the Parties at the conclusion of the pilot phase of activities implemented jointly, in accordance with decision 5/CP.1 of the Conference of the Parties at its first session, to allow joint implementation with Parties not included in Annex I, then Parties included in Annex I [or acting under Article 4(bis)] may, jointly with other Parties, undertake projects aimed at limiting or reducing anthropogenic emissions of greenhouse gases listed in Annex III in any sector of the economy, in conformity with the rules of this Article and the decisions adopted for this purpose by the Conference of the Parties.]

7. If a question of a Party's implementation of the requirements of this Article is identified in accordance with the provisions of Article 12(bis), transfers and acquisitions of emission credits may continue to be made after the question has been identified, provided that any such credits may not be used by any Party to meet its obligations under Article 4, paragraphs 2(b)(bis) to (quinquies) until any issue of compliance is resolved.]

II. Amendment to Article 12

1. *The following paragraphs shall be inserted after paragraph 3:*

3(bis) Each Party included in Annex I [or acting under Article 4(bis)] shall incorporate in its national inventory the necessary supplementary information for the purposes of ensuring compliance with Article 4, paragraphs 2(b)(bis) to (quinquies) and Article 4(ter), to be determined in accordance with paragraph 3(quater) below.

3(ter) Each Party included in Annex I or acting under Article 4(bis) shall incorporate in its communication the supplementary information necessary to demonstrate compliance with its commitments under Article 4, paragraphs 2(a)(bis) to (quinquies), paragraphs 2(b)(bis) to (quinquies) and paragraphs 2(c)(bis) to (quater) and Articles 4(ter), 4 (quinquies) and 4(sexies), to be determined in accordance with paragraph 3(quater) below.

3(quater) Guidelines for the submission of information under paragraphs 3(bis) and 3(ter) above shall be adopted by the Conference of the Parties at its first session after entry into force of this paragraph and reviewed periodically thereafter. The Conference of the Parties shall also, prior to the first budget period, decide upon modalities for the accounting of emission budgets.

2. *The following sentence shall be inserted after the words "... at their discretion" and before the words "The frequency of subsequent communications ..." in paragraph 5:*

Each Party included in Annex I [or acting under Article 4(bis)] shall submit the information required under paragraphs 3(bis) and 3(ter) above as part of the first communication due after those paragraphs have entered into force for that Party and after the adoption of guidelines as provided for in paragraph 3 (quater) above.

I. **New Article 12(bis)**

The following new Article shall be inserted after Article 12:

Article 12(bis)

1. The national communications submitted under Article 12 by each Party included in Annex I [or acting under Article 4(bis)], including the national inventories of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol submitted over the reporting period, shall be reviewed by expert review teams in accordance with guidelines adopted for this purpose by the Conference of the Parties:

(a) Expert review teams shall be co-ordinated by the secretariat and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with guidelines adopted for this purpose by the Conference of the Parties;

(b) The review process shall provide a thorough and comprehensive technical assessment of all aspects of a Party's implementation of the Convention. The expert review teams shall prepare a report to the Conference of the Parties assessing the implementation of a Party's commitments and identifying any potential problems in, and factors influencing, the fulfilment of commitments. Such reports shall be circulated by the secretariat to all Parties. In addition, the secretariat shall identify for further consideration by the Conference of the Parties any questions of implementation indicated by such reports; and

(c) The Conference of the Parties shall adopt at its first session after entry into force of this Article, and review periodically thereafter, guidelines for the review of implementation by expert review teams and the identification of questions of implementation by the secretariat.

2. The Conference of the Parties, with the assistance of the Subsidiary Body for Implementation, shall consider:

(a) The national communications submitted by Parties under Article 12 and the reports of the expert reviews thereof conducted under this Article; and

(b) Any questions of implementation identified by the secretariat under paragraph 1(b) above, as well as any questions raised by Parties.

3. Pursuant to its consideration of the information referred to in paragraphs 2(a) and 2(b) above, the Conference of the Parties shall take decisions on any matter necessary for the implementation of the Convention.[10]

J. Article 13(bis)

The following new Article shall be inserted after Article 13:

New Article 13(bis)

The Conference of the Parties shall, at its first session after entry into force of this Article, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of the Convention, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any binding penalties for non-compliance under the procedures and mechanisms established under this Article shall be _ (*to be completed*).[11]

---

[10] The final drafting of paragraphs 2 and 3 above will take into account discussions on Articles relating to compliance and institutional matters.

[11] The Group of 77 and China stated that this matter is linked with the issue of a clean development fund. Cross-referencing may be introduced once the actual placement of the text on a clean development fund is proposed. The Group of 77 and China reserves the right to revert to this Article.

K. New Article 16(bis)[12]

The following new Article shall be inserted after Article 16

Article 16(bis)

1. Attachments to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any attachments thereto.

2. The adoption and entry into force of attachments, and amendments to attachments, shall be in accordance with the procedure laid down in Article 15, provided that a proposed amendment to the commitment of any Party as set out in an attachment may be adopted only with the specific consent of that Party.

---

[12] To be revisited in the light of further discussions on Article 4.2(b)(bis) and Article 4(ter).

L. **Annexes**

The following new annexes shall be added to the Convention:

[**Annex III** [13]

Gases

Carbon dioxide (CO_2)

Methane (CH_4)

Nitrous oxide (N_2O)

[Hydrofluorocarbons (HFCs)

Perfluorocarbons (PFCs)

Sulphur hexafluoride (SF_6)]

Sectors/source and sink categories

Energy
- Fuel combustion
  - Energy industries
  - Manufacturing industries and construction
  - Transport
  - Other sectors
  - Other
- Fugitive Emissions from fuels
  - Solid fuels
  - Oil and natural gas
  - Other

Industrial processes
- Mineral products
- Chemical industry
- Metal production

---

[13] This list is taken from the revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories: Reporting Instructions. It is understood that the inclusion of individual sectors/source and sink categories will require further discussion and that no agreement has yet been reached on this matter.

Other production
Production of halocarbons and sulphur hexafluoride
Consumption of halocarbons and sulphur hexafluoride
Other

Solvent and other product use

Agriculture
Enteric fermentation
Manure management
Rice cultivation
Agricultural soils
Prescribed burning of savannas
Field burning of agricultural residues
Other

Land use change and forestry
Changes in forest and other woody biomass stocks
Forest and grassland conversion
Abandonment of managed lands
Carbon dioxide emissions and removals from soils
Other

Waste
Solid waste disposal on land
Wastewater handling
Waste incineration
Other]

[Annex IV [14]

1. The process of establishing quantified emission limitation and reduction objectives for each Party subject to Article 4, paragraph 2(b)(bis) shall take into account the differences in starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort. To this effect the differences in the following factors, fully substantiated by readily available official data, shall be taken into account, as appropriate, in the case of each Party:

(a) Carbon dioxide equivalent emissions per capita of the greenhouse gases listed in Annex III;

(b) Carbon dioxide equivalent emissions per unit of gross domestic product of the greenhouse gases listed in Annex III;

(c) Gross domestic product per capita;

(d) Gross domestic product per capita growth;

(e) Effective emissions in a given time period, defined as the increase in global mean surface temperature at the end of the period, as determined by an agreed climate change model, resulting from both the net anthropogenic emissions of an agreed set of greenhouse gases in each year of that time period and from the initial concentrations of those greenhouse gases at the beginning of the period;

(f) Projected population growth;

(g) Emission intensity of gross domestic product;

(h) Emission intensity of exports;

(i) Fossil fuel intensity of exports; and

(j) Share of renewable energy in energy supply.

2. In addressing national circumstances in their communications, Parties shall include data relating to the above factors, as appropriate.]

---

[14] This Annex would only appear if the alternative of establishing differentiated commitments were adopted. In this case, the text would require further discussion, and in particular paragraph 1(e) would need to be better specified.

M. [Attachments

The following attachment shall be inserted after Annex IV:

Attachment 1

Name of Party Emission commitment Base year or period (*where relevant*)]

ARTICLE 2. ENTRY INTO FORCE PROVISIONS

1. This Amendment shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of acceptance, provided that the total carbon dioxide emissions for 1990 of the Parties which have deposited their instruments of acceptance, as indicated in their most recent national communications submitted under Article 12, by that time represent no less than three Gigatonnes of carbon.[15]

2. For each State or regional economic integration organization that accepts this Amendment after the conditions for the entry into force have been fulfilled in accordance with paragraph 1 above, this Amendment shall enter into force on the ninetieth day following the date of deposit of its instrument of acceptance.

3. For the purposes of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of this organization.

- - - - -

[15] There was no agreement on this paragraph.